

HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SWINOMISH INDIAN TRIBAL  
COMMUNITY, a federally recognized  
Indian Tribe,

Plaintiff,

v.

BNSF RAILWAY COMPANY, a Delaware  
corporation,

Defendant.

No. 2:15-cv-00543-RSL

STIPULATED MOTION AND ORDER  
REGARDING TRIAL EVIDENCE

[PROPOSED]

NOTE ON MOTION CALENDAR:  
MAY 16, 2024

**I. MOTION**

Plaintiff Swinomish Indian Tribal Community and Defendant BNSF Railway Company (“BNSF”) submit this Stipulated Order Regarding Trial Evidence. On May 8, 2024, counsel for the Tribe and BNSF met and conferred regarding the parties’ respective potential motions in limine. One of the motions BNSF raised was to exclude evidence or arguments regarding BNSF’s relative size to the Tribe in terms of revenue, profit, or financial value as not relevant to the remaining issue before the Court and highly prejudicial to BNSF.

Having met and conferred on the issue, the parties stipulate that they will not introduce any evidence or argument about the size of the Tribe and will not compare the relative sizes of

1 the Tribe and BNSF. Nor will the Tribe argue that the Tribe is entitled to a larger award because  
2 of BNSF's size. The Tribe is not precluded from presenting evidence based on BNSF's  
3 publically filed company-wide financial information. Accordingly, BNSF will not file a motion  
4 in limine on this topic.

## 5 II. ORDER

6 THIS MATTER comes before the Court on Plaintiff Swinomish Indian Tribal  
7 Community and Defendant BNSF Railway Company's Stipulated Motion and Order Regarding  
8 Trial Evidence. Having reviewed the stipulated motion and the applicable law, the Court hereby  
9 GRANTS the stipulated order.  
10

11  
12 ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

13  
14  
15 HONORABLE ROBERT S. LASNIK  
United States District Court Judge

16 *Presented by:*

17 PACIFICA LAW GROUP LLP

18 By: /s/ Kai Smith

19 Paul J. Lawrence, WSBA #13557

20 Kai Smith, WSBA #54749

21 Meha Goyal, WSBA #56058

22 *Attorneys for Defendant BNSF Railway*

23 AGREED AS TO FORM

24 NOTICE OF PRESENTATION WAIVED:

25 TOUSLEY BRAIN STEPHENS PLLC

26 By: /s/ Rebecca L. Solomon

27 Christopher I. Brain, WSBA #5054

Rebecca L. Solomon, WSBA #51520

STIUPLATED MOTION AND ORDER - 2

Cause No. 2:15-cv-00543-RSL

PACIFICA LAW GROUP LLP  
1191 SECOND AVENUE  
SUITE 2000  
SEATTLE, WASHINGTON 98101-3404  
TELEPHONE: (206) 245.1700  
FACSIMILE: (206) 245.1750

1 OFFICE OF THE TRIBAL ATTORNEY, SWINOMISH  
2 INDIAN TRIBAL COMMUNITY

3 Stephen T. LeCuyer, WSBA #36408

4 Weston R. LeMay, WSBA #51916

5 *Attorneys for Plaintiff Swinomish Indian Tribal Community*  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27